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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,424	11/16/2005	Ole Jan Myhre	0002096USU/3053	1172

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EXAMINER

RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
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1713

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/523,424

Applicant(s)

MYHRE ET AL.

Examiner

Roberto Rábago

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,9-11,13-16 and 18-25 is/are rejected.
- 7) ☒ Claim(s) 2,6-8,12 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/28/2005
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application
- ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 21 provides for the use of a polyethylene composition, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 21 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 404368.

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The reference discloses in Table I results from Dart impact resistance using a 0.0013" (33 μm) monolayer shrink film of a resin composition comprising an ethylene homopolymer/copolymer blend. To meet all of the claims, the Dart drop value must exceed $(6 \text{ g}/\mu\text{m}) \times (33 \text{ } \mu\text{m}) = 198 \text{ g}$. The reference table includes numerous samples which meet this requirement.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-5, 9-11, 13, 15 and 18-20 are rejected under 35 U.S.C. 103(a) as obvious over EP 404368.

The reference discloses resin compositions for use in shrink wrapping of articles. The resin composition comprises a homopolymer of ethylene and an ethylene/olefin copolymer (pg. 2, line 1 through page 3, line 7; Table I). The reference has not reported the MWD or Mw of the resin blend. However, one of ordinary skill in the art would be motivated to use resins with values within the claimed range because applicants have claimed the majority of conventional values for these parameters found in common LDPE and LLDPE materials of the type reported.

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6. Claims 1, 3-5, 9, 13, 15 and 21-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO 99/03902.

The reference discloses blown films of an in-situ blend comprising ethylene homopolymer and ethylene copolymer. At least Examples 2 and 9 disclose all claimed limitations (see Tables 1 and 3-9). The blown films disclosed in the reference are not specifically described as shrink films; however, they are stretched during extrusion/blowing, which would impart at least some orientation to the polymer chains, and therefore the films would experience at least non-zero shrinkage upon application of some amount of heat as a result of stress relaxation. In the alternative, if applicants can show that the reference films would not be expected to show any shrinkage at all under any heat condition, then one of ordinary skill in the art would be motivated to make a shrink film of polymers similar to those of the reference examples in view of the recommendation to make shrink films at page 25, line 26.

7. Claims 10, 11, 14, 16, 18-20 and 22-25 are rejected under 35 U.S.C. 103(a) as obvious over WO 99/03902.

The parent claims are discussed with respect to this reference above. Missing from the cited examples are the claimed component ratio, use of butene or hexene comonomer, increased film thickness, multilayer structures and wrapped objects. However, one of ordinary skill in the art would be motivated to use these alternative embodiments in films analogous to those of the reference examples because the

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reference has suggested their use at: page 20, lines 13-18; page 24, lines 7-15; page 25, lines 22-26. Regarding film thickness, the states at page 26, lines 15-18, that the film thickness can be of any thickness depending on its application, and therefore one of ordinary skill in the art would be motivated to use at least those thicknesses in the conventional range for polyethylene blown and shrink films, including the claimed range. Additionally regarding wrapping an object with a shrink film, one of ordinary skill in the art would immediately envisage using the recommended shrink film for shrink-wrapping of an object because such use is the primary application of a shrink film.

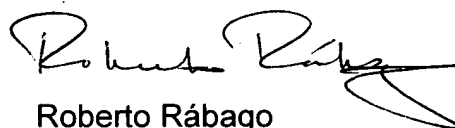
8. Claims 2, 6-8, 12 and 17 objected to as being dependent upon a rejected base claim, but would be allowable over the prior art currently of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Roberto Rábago
Primary Examiner
Art Unit 1713

RR
March 6, 2007